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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 JP MORGAN CHASE BANK, N.A., et al.,

11 Plaintiffs,

12 vs.

13 7290 SHEARED CLIFF LANE UN 102  
14 TRUST, et al.,

15 Defendants.  
16

Case No. 2:17-cv-00225-JCM-NJK

ORDER

(Docket No. 35)

17 Pending before the Court is Plaintiff JP Morgan Chase Bank and Defendant 7290 Sheared Cliff  
18 Lane UN 102 Trust's joint motion to stay discovery pending resolution of Defendant's motion to dismiss  
19 and Plaintiff's motion for summary judgment. *See* Docket No. 35; *see also* Docket No. 12 (motion to  
20 dismiss), Docket No. 26 (motion for summary judgment). The Court finds the motion properly resolved  
21 without a hearing. *See* Local Rule 78-1. For the reasons discussed below, the Court **DENIES** the  
22 motion to stay discovery.

23 The Court has broad discretionary power to control discovery. *See, e.g., Little v. City of Seattle*,  
24 863 F.2d 681, 685 (9th Cir. 1988). "The Federal Rules of Civil Procedure do not provide for automatic  
25 or blanket stays of discovery when a potentially dispositive motion is pending." *Tradebay, LLC v. eBay*,  
26 *Inc.*, 278 F.R.D. 597, 601 (D. Nev. 2011). The party seeking a stay carries the heavy burden of making  
27 a strong showing why discovery should be denied. *See, e.g., Turner Broadcasting Sys., Inc. v. Tracinda*  
28 *Corp.*, 175 F.R.D. 554, 556 (D. Nev. 1997). The case law in this District makes clear that requests to

1 stay all discovery may be granted when: (1) the pending motion is potentially dispositive; (2) the  
2 potentially dispositive motion can be decided without additional discovery; and (3) the Court has taken  
3 a “preliminary peek” at the merits of the potentially dispositive motion and is convinced that the plaintiff  
4 will be unable to state a claim for relief. *See Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D.  
5 Nev. 2013).<sup>1</sup>

6 The Court finds that a stay of discovery is not appropriate in this case. Most significantly, the  
7 Court has taken a preliminary peek at the two pending motions and is not convinced that either one will  
8 be granted.<sup>2</sup> It bears repeating that the filing of a non-frivolous dispositive motion, standing alone, is  
9 simply not enough to warrant staying discovery. *See, e.g., Tradebay*, 278 F.R.D. at 603. Instead, the  
10 Court must be “convinced” that the dispositive motion will be granted. *See, e.g., id.* “That standard is  
11 not easily met.” *Kor Media*, 294 F.R.D. at 583. “[T]here must be *no question* in the court’s mind that  
12 the dispositive motion will prevail, and therefore, discovery is a waste of effort.” *Id.* (quoting *Trazska*  
13 *v. Int’l Game Tech.*, 2011 WL 1233298, \*3 (D. Nev. Mar. 29, 2011)) (emphasis in original). The Court  
14 requires this robust showing that the dispositive motion will succeed because applying a lower standard  
15 would likely result in unnecessary delay in many cases. *Id.* (quoting *Trazska*, 2011 WL 1233298, at \*4).

16 The Court has carefully reviewed the arguments presented in the motion to dismiss and the  
17 motion for summary judgment, as well as the arguments made in the briefing on the motion to stay  
18 discovery.<sup>3</sup> The Court is simply not convinced that either dispositive motion will be granted, such that  
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22 <sup>1</sup> The pending motion is somewhat unusual in that Plaintiff and Defendant each seek a stay of  
23 discovery pending resolution of their respective dispositive motions. As such, the Court modifies the  
24 applicable standards in that it is taking a preliminary peek to determine whether it is convinced that  
dispositive relief will be granted to Plaintiff vis-a-vis its motion to dismiss or to Defendant vis-a-vis its  
motion for summary judgment.

25 <sup>2</sup> Conducting this preliminary peek puts the undersigned in an awkward position because the assigned  
26 district judge who will decide the motion to dismiss may have a different view of its merits. *See Tradebay*,  
27 278 F.R.D. at 603. The undersigned’s “preliminary peek” at the merits of that motion is not intended to  
prejudice its outcome. *See id.*

28 <sup>3</sup> Briefing on the motion for summary judgment has not been completed.

1 conducting discovery will be a waste of effort.<sup>4</sup> *See, e.g., Bayview Loan Serv., LLC v. SFR Investments*  
2 *Pool 1, LLC*, 2017 WL 1100955, at \*4-5 (D. Nev. Mar. 22, 2017).

3 Accordingly, the Court **DENIES** the motion to stay discovery. Docket No. 35.

4 IT IS SO ORDERED.

5 DATED: May 8, 2017.

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8 NANCY J. KOPPE  
9 United States Magistrate Judge  
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26 <sup>4</sup>Additionally, the parties have represented to the Court that the Homeowners Association has  
27 requested that the default against it be set aside and that Plaintiffs' counsel has agreed to this request.  
28 Docket No. 29 at 2. The Association is not a party to the instant motion to stay, or to either of the dispositive  
motions.